

**SETTLEMENT AGREEMENT BETWEEN**  
**THE STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS**  
**AND SHELDON-GOODRICH FUNERAL HOME**

Sheldon-Goodrich Funeral Home ("Funeral Home") and the State Board of Embalmers and Funeral Directors ("the Board") enter into this Settlement Agreement ("Agreement") for the purpose of resolving the question of whether Funeral Home's funeral establishment license will be subject to discipline. Pursuant to § 536.060, RSMo<sup>1</sup>, the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri, and additionally, the parties hereto waive the right to a disciplinary hearing before the Board under § 621.110, RSMo. Funeral Home and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo.

Funeral Home acknowledges that it understands the various rights and privileges afforded by law, including the right to a hearing of the charges against it; the right to appear and be represented by legal counsel; the right to have all charges against it proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against it; the right to present evidence on its own behalf at the hearing; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a decision based upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against it; the right to a disciplinary hearing before the Board at which time it may present evidence in mitigation of discipline; the right to a claim for attorney's fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and

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<sup>1</sup>All statutory references are to RSMo 2000, as amended, unless otherwise noted.

the Board. Being aware of these rights provided it by law, Funeral Home knowingly and voluntarily waives each and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of this document as those terms pertain to it.

Funeral Home acknowledges that it has been informed of the right to consult legal counsel in this matter at its own expense. Funeral Home further acknowledges that it has received a copy of the investigative report and other documents relied upon by the Board in determining there was cause for discipline, along with citations to law and/or regulations the Board believes was violated. For the purpose of settling this dispute, Funeral Home stipulates with the Board that Funeral Home's license as a funeral establishment, License No. 001864, is subject to disciplinary action by the Board in accordance with the provisions of Chapter 621 and Chapter 333, RSMo.

The parties stipulate and agree that the disciplinary order agreed to by the Board and Funeral Home in Part II herein is based only on the agreement set out in Part I herein. Funeral Home understands that the Board may take further disciplinary action against Funeral Home's funeral establishment license based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.

Based upon the foregoing, the Board and Funeral Home stipulate to the following:

**I.**

**JOINT STIPULATIONS OF FACT & CONCLUSIONS OF LAW**

1. The State Board of Embalmers and Funeral Directors ("the Board") is an agency of the state of Missouri created and existing pursuant to § 333.111, RSMo, for the purpose of licensing embalmers and funeral directors and of executing and enforcing the provisions of Chapter 333, RSMo.

2. Sheldon-Goodrich Funeral Home holds a Missouri funeral establishment license, No. 001864, and Sheldon-Goodrich Funeral Home is both a Function A and a Function C Funeral Establishment.

3. Charles R. Sheldon ("Sheldon") holds a Missouri funeral director's license, No. 003018.

4. Sheldon is, and was at all relevant times herein, the designated funeral director in charge of Funeral Home.

5. Both Funeral Home's and Sheldon's licenses are, and were at all relevant times herein, active and valid.

6. Sheldon's Missouri funeral director license and Funeral Home's establishment license are jointly culpable for the conduct and violations revealed by the Board's inspections dated April 21, 2004, April 12, 2005, and February 10, 2006.

7. The Board conducted an inspection at Sheldon-Goodrich Funeral Home on or about April 21, 2004 ("April 21, 2004 Inspection").

8. The Board conducted an inspection at Sheldon-Goodrich Funeral Home on or about April 12, 2005 ("April 12, 2005 Inspection").

9. The Board conducted an inspection at Sheldon-Goodrich Funeral Home on or about February 10, 2006 ("February 10, 2006 Inspection").

10. The April 21, 2004 Inspection revealed an Authorization for Cremation without a written Statement of Funeral Goods and Services included for the following:

1. Thomas Glen Russell, authorization of cremation, dated April 4, 2004; and
2. Jon Allen Tatum, authorization of cremation, dated March 31, 2004.

11. The April 21, 2004 Inspection revealed services performed without a written Statement of Funeral Goods and Services included for Gilbert Higgins, Missouri Military Funeral Honors Request, dated March 18, 2004.

12. The April 21, 2004 Inspection revealed two Statements of Funeral Goods and Services that did not include the purchaser's and/or funeral director's signature:

1. Mitchellene Rosicka, date of death February 25, 2004, which does not contain the signature of the funeral director or the purchaser; and
2. Shirley Chambers, date of death April 10, 2004, which does not contain the signature of the purchaser.

13. The April 21, 2004 Inspection revealed that the embalming log does not contain the signature or license number for the embalming of nine bodies.

14. The April 12, 2005 Inspection revealed three Statements of Funeral Goods and Services that did not include the purchaser's and/or funeral director's signature:

1. Richard Sunderwieth, date of death March 18, 2005;
2. Janice Maggard, date of death March 22, 2005; and
3. Jack Wood, date of death March 24, 2005.

15. The April 12, 2005 Inspection revealed three caskets in the showroom that did not exhibit a price.

16. The April 12, 2005 Inspection revealed that no general price list could be located upon request.

17. The April 12, 2005 Inspection revealed the container for dirty laundry in the preparation room was not covered and did not have a lid.

18. The April 12, 2005 Inspection further revealed tile in the foyer of Funeral Home had a piece missing.

19. The April 12, 2005 Inspection also revealed that Funeral Home could not locate the at-need statement for Delouris Matthews, but the pre-need statement was filed with the current at-need statements.

20. The February 10, 2006 Inspection revealed that Funeral Home failed to clearly display merchandise prices.

21. A Sheldon-Goodrich Funeral Home representative signed inspection reports for the inspections dated April 21, 2004, April 12, 2005, and February 10, 2006.

22. Jurisdiction and venue are proper before the Administrative Hearing Commission pursuant to §§ 621.045 and 333.121.2, RSMo.

23. Section 333.121.2, RSMo, authorizes the Board to file a complaint with the Administrative Hearing Commission and states, in part:

....

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

....

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

....

(13) Violation of any professional trust or confidence.

24. Section 333.145, RSMo, requires written and signed statements of charges and states, in relevant part:

1. Every funeral firm in this state or the funeral service licensee thereof shall give or cause to be given to the person or persons making funeral arrangements or arranging for the disposition of a dead human body, at the time such arrangements are completed and prior to the time of rendering the service or providing the merchandise, a written statement signed by the purchaser or purchasers or their legal representatives, and a representative of the funeral establishment, showing to the extent then known:

(1) The price of the service that the person or persons have selected and what is included therein;

(2) The price of each of the supplemental items of service or merchandise requested;

(3) The amount involved for each of the items for which the firm will advance moneys as an accommodation to the family;

(4) The method of payment.

25. The failure of Funeral Home to provide written statements of charges for funeral goods and services to clients for services rendered on three separate instances, as revealed by the April 21, 2004 Inspection, constitutes three separate violations of Section 333.145.1, RSMo, providing grounds to discipline pursuant to Section 333.121.2(6), RSMo.

26. The failure of Funeral Home to provide written statements of charges for funeral goods and services to clients for services rendered on three separate instances as revealed by the April 21, 2004 Inspection demonstrates incompetency, misconduct, gross negligence, fraud, misrepresentation and dishonesty in the performance of the functions and duties of a funeral home, constituting three independent grounds for discipline pursuant to Section 333.121.2(5), RSMo.

27. The failure of Funeral Home to provide written statements of charges for funeral goods and services to clients for services rendered on three separate instances as revealed by the April 21, 2004 Inspection demonstrates three separate violations of a professional trust and confidence of a funeral home, constituting three independent grounds for discipline pursuant to Section 333.121.2(13), RSMo.

28. By failing to have an at-need statement for Delouris Matthews and attempting to use her pre-need contract as the written statement to satisfy Missouri statutes and their applicable regulations, Funeral Home failed to have a valid written statement, violating Section 333.145.1, RSMo, giving cause for discipline pursuant to Section 333.121.2(6), RSMo.

29. By failing to have an at-need statement for Delouris Matthews and attempting to use her pre-need contract as the written statement to satisfy Missouri statutes and their applicable regulations, Funeral Home failed to have a valid written statement, demonstrating incompetency, misconduct, gross negligence, fraud, misrepresentation and dishonesty in the performance of the functions and duties of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(5), RSMo.

30. By failing to have an at-need statement for Delouris Matthews and attempting to use her pre-need contract as the written statement to satisfy Missouri statutes and their applicable

regulations, Funeral Home failed to have a valid written statement, demonstrating a violation of a professional trust and confidence of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(13), RSMo.

31. The failure of Funeral Home to produce Statements of Funeral Goods and Services with signatures of both the funeral home director and the purchaser on two instances as revealed by the April 21, 2004 Inspection and three instances as revealed by the April 12, 2005 Inspection constitutes five separate violations of Section 333.145.1, RSMo, each violation providing grounds for discipline pursuant to Section 333.121.2(6), RSMo.

32. The failure of Funeral Home to produce Statements of Funeral Goods and Services with signatures of both the funeral home director and the purchaser on two instances as revealed by the April 21, 2004 Inspection and three instances as revealed by the April 12, 2005 Inspection demonstrates incompetency, misconduct, gross negligence, fraud, misrepresentation and dishonesty in the performance of the functions and duties of a funeral home, constituting five independent grounds for discipline pursuant to Section 333.121.2(5), RSMo.

33. The failure of Funeral Home to produce Statements of Funeral Goods and Services with signatures of both the funeral home director and the purchaser on two instances as revealed by the April 21, 2004 Inspection and three instances as revealed by the April 12, 2005 Inspection demonstrates five separate violations of a professional trust and confidence of a funeral home, each violation providing grounds for discipline pursuant to Section 333.121.2(13), RSMo.

34. Section 333.061, RSMo, holds requirements for funeral establishments, and provides grounds for discipline of a funeral establishment license, stating in relevant part:

....



2. A license for the operation of a funeral establishment shall be issued by the board, if the board finds:

....

(4) Each funeral establishment shall have available in the preparation or embalming room a register book or log which shall be available at all times in full view for the board's inspector and the name of each body embalmed, place, if other than at the establishment, the date and time that the embalming took place, the name and signature of the embalmer and the embalmer's license number shall be noted in the book.

....

5. The board may refuse to renew or may suspend or revoke any license issued under this section if it finds, after hearing, that the funeral establishment does not meet any of the requirements set forth in this section as conditions for the issuance of a license[.]

35. 4 CSR 120-2.070 delineates the documents to be maintained by licensed funeral homes, stating in relevant part:

....

(24) Each Function A funeral establishment licensed for embalming shall maintain on the premises in the preparation room an embalming log.

36. By failing to maintain an embalming log containing the signature or license number for the embalming of nine bodies as revealed by the April 21, 2004 inspection, Funeral Home violated Section 333.061.2(4), RSMo, and 4 CSR 120-2.070(24), on nine separate instances, providing eighteen separate grounds for discipline pursuant to Section 333.121.2(6), RSMo.

37. 4 CSR 120-2.090 outlines the standards required of funeral establishment preparation rooms, and states in relevant part:

....

(10) All preparation rooms and all articles stored in them must be kept and maintained in a clean and sanitary condition. All embalming...hoppers,...receptacles,... and other appliances used in embalming or other preparation of dead human bodies must be so constructed that they can be kept and maintained in a clean and sanitary condition.

38. 4 CSR 120-2.070 establishes requirements for the maintenance of funeral establishments, stating in relevant part:

....

(14) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be kept free and clean of litter, dirt, debris and clutter or other objects or conditions which present a potential or actual hazard to the health, safety or welfare of the public.

(15) The interior and exterior of the Missouri licensed funeral establishment physical plant shall be maintained in a manner that does not present a potential or actual hazard to the health, safety or welfare of the public.

39. By failing to cover the container for dirty laundry in the preparation room as revealed by the April 12, 2005 inspection, Funeral Home did not maintain the preparation room in a clean and sanitary condition and created a condition which presented a potential or actual hazard to the health, safety, and welfare of the public, violating 4 CSR 120-2.090(10), 4 CSR 120-2.070(14) and (15), constituting grounds for discipline pursuant to Section 333.121.2(6), RSMo.

40. By failing to provide a lid for the container for dirty laundry in the preparation room as revealed by the April 12, 2005 inspection, Funeral Home failed to provide embalming hoppers, receptacles or other appliances constructed so the preparation room can be maintained in a clean and sanitary condition and created a condition which presented a potential or actual hazard to the health, safety, and welfare of the public, violating 4 CSR 120-2.090(10), 4 CSR 120-2.070(14) and (15), constituting grounds for discipline pursuant to Section 333.121.2(6), RSMo.

41. By failing to cover the container for dirty laundry in the preparation room as revealed by the April 12, 2005 inspection, Funeral Home did not maintain the preparation room in a clean and sanitary condition, demonstrating incompetency, misconduct, and gross negligence in the performance of the functions or duties of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(5), RSMo.

42. By failing to provide a lid for the container for dirty laundry in the preparation room as revealed by the April 12, 2005 inspection, Funeral Home demonstrated incompetency, misconduct, and gross negligence in the performance of the functions and duties of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(5), RSMo.

43. By failing to replace tile in the floor of the Funeral Home foyer as revealed by the April 12, 2005 inspection, Funeral Home created a condition which presented a potential and/or actual hazard to the health, safety and/or welfare of the public, violating 4 CSR 120-2.070(14) and (15), providing grounds to discipline pursuant to Section 333.121.2(6), RSMo.

44. By failing to replace tile in the floor of the Funeral Home as revealed by the April 12, 2005 inspection, Funeral Home demonstrated incompetency, misconduct, and gross negligence in

the performance of the functions or duties of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(5), RSMo.

45. Section 333.145.3, RSMo, delineates requirements regarding merchandise pricing, stating in relevant part:

....

All merchandise displayed in or by funeral establishments in this state shall have the price of the merchandise and included services, if any, clearly marked or indicated on the merchandise at all times.

46. 4 CSR 120-2.070 requires certain documents to be maintained by funeral establishments, stating in relevant part:

....

(23) Each Function C funeral establishment shall maintain on the premises the following documents:

(A) General price list[.]

47. By failing to clearly display merchandise prices as revealed by the February 10, 2006 Inspection, Funeral Home violated Section 333.145.3, RSMo, providing grounds for discipline pursuant to Section 333.121.2(6), RSMo.

48. By failing to indicate a price on three caskets as revealed by the April 12, 2005 Inspection, Funeral Home violated Section 333.145.3, RSMo, providing three separate grounds for discipline pursuant to Section 333.121.2(6), RSMo.

49. By failing to indicate a price on three caskets as revealed by the April 12, 2005 Inspection and failing to clearly display merchandise prices as revealed by the February 10, 2006 Inspection, Funeral Home demonstrated incompetency, misconduct, gross negligence, fraud,

misrepresentation and dishonesty in the performance of the functions and duties of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(5), RSMo.

50. By failing to indicate a price on three caskets as revealed by the April 12, 2005 Inspection and failing to clearly display merchandise prices as revealed by the February 10, 2006 Inspection, Funeral Home violated a professional trust and confidence of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(13), RSMo.

51. By failing to provide a general price list as revealed by the April 12, 2005 inspection, Funeral Home did not maintain a general price list on the premises, violating 4 CSR 120-2.070(23)(A), providing grounds to discipline pursuant to Section 333.121.2(6), RSMo.

52. By failing to provide a general price list as revealed by the April 12, 2005 inspection, Funeral Home demonstrated misconduct, incompetency, gross negligence, fraud, misrepresentation, and dishonesty in the performance of the functions and duties of a funeral home, constituting grounds for discipline pursuant to Section 333.121.2(5), RSMo.

53. By failing to provide a general price list as revealed by the April 12, 2005 inspection, Funeral Home violated a professional trust and confidence of a funeral home, constituting grounds for discipline pursuant to Sections 333.121.2(13), RSMo.

## **II.**

### **JOINTLY AGREED UPON DISCIPLINARY ORDER**

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered into by the Board in this matter under the authority of §§ 333.121.3, 536.060, 621.045.3, and 621.110, RSMo.

1. Funeral Home's FUNERAL ESTABLISHMENT LICENSE, License No. 001864, is SUSPENDED for a period of THREE DAYS. During the period of suspension, Funeral Home may not practice as a funeral home as defined in Chapter 333, RSMo, nor receive any compensation as such.

2. Immediately thereafter, Funeral Home'S FUNERAL ESTABLISHMENT LICENSE, License No. 001864, is placed on PROBATION for a period of TWO YEARS. The period of probation and suspension shall constitute the "disciplinary period." During the period of probation, Funeral Home may operate as a funeral home, provided Funeral Home adheres to all the terms stated herein.

3. Terms and conditions of the disciplinary period are as follows:

- A. Funeral Home shall keep the Board apprised at all times in writing of its current business address and telephone number. Funeral Home shall notify the Board in writing within ten days of any changes in this information.
- B. Funeral Home shall timely renew its funeral establishment license when required and shall maintain such license in an active and valid state throughout the disciplinary period.
- C. If at any time during the disciplinary period, Funeral Home changes residence from the state of Missouri, Funeral Home ceases to be currently licensed under the provisions of Chapter 333, RSMo, Funeral Home fails to timely pay all fees required for license renewal, or Funeral Home fails to keep the Board advised of all current places of business, then the time of absence, unlicensed status, delinquency in paying fees for license renewal, or unknown

whereabouts shall not be deemed or taken as any part of the disciplinary period.

- D. Funeral Home shall comply with all provision of Chapter 333, RSMo, all rules and regulations of the Board, and all local, state, and federal laws. "State" as used herein refers to the state of Missouri and all other states and territories of the United States.
- E. Funeral Home shall accept and comply with reasonable unannounced visits from the Board's duly authorized agents to monitor compliance with the terms and conditions stated herein.
- F. Funeral Home shall submit written reports to the Board on or before January 1 and July 1 during each year of the disciplinary period stating truthfully whether there has been compliance with all terms and conditions of this Agreement. The first such report shall be received by the Board on or before January 1, 2007.

4. Upon the expiration of the disciplinary period, Funeral Home's funeral establishment license shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the Board determines that Funeral Home has violated any term or condition of this Agreement, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Funeral Home's license.

5. No order shall be entered by the Board pursuant to the preceding paragraph of this Agreement without notice and an opportunity for hearing before the Board in accordance with the provisions of Chapter 536, RSMo.

6. If the Board determines that Funeral Home has violated a term or condition of this Agreement, which violation also would be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Agreement in its determination of appropriate legal actions concerning such violation.

7. If any alleged violation of this Agreement occurred during the disciplinary period, the parties agree that the Board may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Funeral Home agrees and stipulates that the Board has continuing jurisdiction to hold a hearing to determine if a violation of this Agreement has occurred.

8. The parties to this Agreement agree to pay all their own fees and expenses incurred as a result of this case, settlement, and litigation.

9. The parties to this Agreement understand that the Board will maintain this Agreement as an open and public record of the Board as provided in Chapters 333, 610 and 620, RSMo.

10. The terms of this Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Agreement nor any of its provisions may be changed, waived, discharged, or terminated except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

11. Funeral Home, together with its shareholders, partners, heirs, assigns, agents, employees, representatives, and attorneys, does hereby waive, release, acquit and forever discharge the Board, its respective members, employees, agents, and attorneys, including former members,



employees, agents and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs, expenses, and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case, its investigation, its litigation, and its settlement, or from the negotiation or execution of its settlement. Funeral Home acknowledges that this paragraph is severable from the remaining portions of the Agreement in that it survives in perpetuity even in the event that any court of law or administrative tribunal deems this Agreement or any portion thereof void or unenforceable.

12. Funeral Home understands that it may, either at the time the Settlement Agreement is signed by all parties, or within 15 days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Funeral Home's Licenses. If Funeral Home desires the Administrative Hearing Commission to review this Settlement Agreement, Funeral Home may submit its request to: Administrative Hearing Commission, Truman State Office Building, Room 640, P.O. Box 1557, Jefferson City, Missouri 65101.

13. If Funeral Home has requested review, Funeral Home and the Board jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Funeral Home's funeral establishment license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining such license. The agreed upon discipline set forth herein shall be effective the date the Administrative Hearing Commission determines that this Agreement sets forth cause for disciplining such licenses.


If Funeral Home has not requested review, this Agreement becomes effective 15 days after the document is signed by the Board's Executive Director.

14. As designated funeral director of Sheldon-Goodrich Funeral Home, Charles Sheldon possesses the legal authority to bind Sheldon-Goodrich Funeral Home to this settlement agreement.

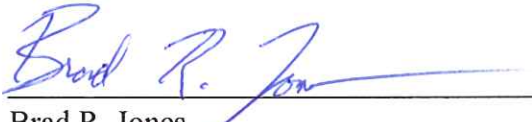
LICENSEE

 10/20/06  
Charles R. Sheldon Date  
on behalf of Sheldon-Goodrich Funeral Home

STATE BOARD OF EMBALMERS  
AND FUNERAL DIRECTORS

 10/31/06  
Becky Dunn Date  
Executive Director

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